

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

GRAPHIC COMMUNICATIONS LOCAL
1B HEALTH & WELFARE FUND "A"; and
THE TWIN CITIES BAKERY DRIVERS
HEALTH AND WELFARE FUNDS,
individually and on behalf of others similarly
situated,

Plaintiffs,

vs.

CVS CAREMARK CORPORATION; CVS
PHARMACY, INC.; CAREMARK, LLC;
CAREMARK MINNESOTA SPECIALTY
PHARMACY HOLDING LLC; COBORN'S
INCORPORATED; KMART HOLDING
CORPORATION; SEARS, ROEBUCK AND
CO.; SEARS HOLDINGS CORPORATION;
SNYDER'S DRUG STORES (2009);
SNYDER'S HOLDINGS, INC. (2009);
TARGET CORPORATION; WALGREEN
CO.; and WAL-MART STORES, INC.,

Defendants.

Civil No. 09-cv-02203-JMR-JSM

**DEFENDANTS' MOTION TO DISMISS
PLAINTIFFS' SECOND AMENDED
COMPLAINT**

Defendants CVS Caremark Corporation, CVS Pharmacy, Inc., Caremark, LLC.

Caremark Minnesota Specialty Pharmacy, LLC, Caremark Minnesota Specialty Pharmacy Holding, LLC, Coborn's Incorporated, Kmart Holding Corporation, Sears, Roebuck and Co., Sears Holdings Corporation, Snyder's Drug Stores (2009), Inc., Snyder's Holdings (2009), Inc., Snyder's Holdings, Inc., Target Corporation; Walgreen Co., and Wal-Mart Stores, Inc., hereby move pursuant to Rules 8(a), 9(b), 12(b)(6), and 12(b)(1) of the Federal Rules of Civil Procedure for an order dismissing the Second Amended Complaint with prejudice.

The grounds for this motion are that the Second Amended Complaint fails to plead sufficient facts showing that plaintiffs are entitled to the relief sought, as is required by Rule 8(a); that it fails to plead alleged fraud with particularity, as is required by Rule 9(b); that it fails to state a claim upon which relief may be granted, as is required by Rule 12(b)(6); and that plaintiffs lack standing to bring the claims alleged, as is required by Rule 12(b)(1).

This motion is based upon all of the files, records, and proceedings in this action, and upon the Memorandum in Support of Defendants' Motion to Dismiss that will be filed in accordance with Local Rule 7.1(b)(1).

**GRAY, PLANT, MOOTY, MOOTY &
BENNETT, P.A.**

Date: December 4, 2009.

By /s/ Aaron Biber
Aaron F. Biber (#189376)
Jason J. Stover (#030573x)
500 IDS Center
80 South Eighth Street
Minneapolis, MN 55402
Telephone: (612) 632-3394

Of Counsel:

FOLEY & LARDNER LLP

Frank E. Pasquesi
Robert H. Griffith
Andrea K. Zollett
321 N. Clark Street, Suite 2800
Chicago, IL 60654
Telephone: (312) 832-4500

Attorneys for Defendants CVS Caremark
Corporation; CVS Pharmacy, Inc.; Caremark,
LLC; Caremark Minnesota Specialty
Pharmacy, LLC; and Caremark Minnesota
Specialty Pharmacy Holding, LLC

DORSEY & WHITNEY

Date: December 4, 2009.

By /s/ James Langdon
James K. Langdon (#171931)
Suite 1500
50 South Sixth Street
Minneapolis, MN 55402-1498
Telephone: (612) 340-2600

Attorneys for Defendants Snyder's Drug Stores
(2009), Inc.; Snyder's Holdings (2009), Inc.;
and Snyder's Holdings, Inc.

BRIGGS AND MORGAN, P.A.

Date: December 4, 2009.

By /s/ Britt Gilbertson
Gregory J. Stenmoe (#131155)
Britt M. Gilbertson (#034977x)
2200 IDS Center
80 South 8th Street
Minneapolis, MN 55402
Telephone: (612) 977-8400

Attorneys for Defendant Coborn's
Incorporated

**HALLELAND LEWIS NILAN &
JOHNSON, P.A.**

Date: December 4, 2009.

By /s/ Tracy Van Steenburgh
Tracy J. Van Steenburgh (#141173)
600 U.S. Bank Plaza South
220 South Sixth Street
Minneapolis, MN 55402
Telephone: (612) 338-1838

- and -

DYKEMA GOSSETT PLLC

Todd Grant Cattoni (P47843)
Jill M. Wheaton (P49921)
Lisa A. Brown (P67208)
2723 S. State Street, Suite 400
Ann Arbor, MI 48104
Telephone: (734) 214-7629

Attorneys for Defendants Kmart Holding
Corporation; Sears, Roebuck & Co.; and Sears
Holdings Corporation

FREDRIKSON & BYRON, P.A.

Date: December 4, 2009.

By /s/ Adam W. Wiers
David R. Marshall (#184457)
Joseph J. Cassioppi (#388238)
200 South Sixth Street, Suite 4000
Minneapolis, MN 55402
Telephone: (612) 492-7000

- and -

JONES DAY

Tina M. Tabacchi
Adam W. Wiers
77 West Wacker
Chicago, IL 60601-1692
Telephone: (312) 782-3939

Attorneys for Defendant Wal-Mart Stores, Inc.

**LEONARD, STREET AND DEINARD
Professional Association**

Date: December 4, 2009.

By /s/ William L. Greene
William L. Greene (#198730)
Todd A. Noteboom (#240047)
David A. Applebaum (#350606)
150 South Fifth Street, Suite 2300
Minneapolis, MN 55402
Telephone: (612) 335-1500

Attorneys for Defendant Walgreen Co.

FAEGRE & BENSON LLP

Date: December 4, 2009.

By /s/ Craig Coleman

Wendy J. Wildung (#117055)

Craig S. Coleman (#0325491)

2200 Wells Fargo Center

90 South Seventh Street

Minneapolis, MN 55402-3901

Telephone: (612) 766-7000

Attorneys for Defendant Target Corporation

fb.us.4417274.01